

B. BellSouth Has Not Demonstrated That it Provides Nondiscriminatory Access So That CLECs may Combine UNEs

Competitive checklist item (ii) requires BOCs to provide nondiscriminatory access to their network elements. To comply with that checklist item, CLECs must have access to BellSouth's network that is at least equal to BellSouth's own access. As is the case with access to OSS for ordering, pre-ordering and repair and maintenance functions, the target here is parity with BellSouth's own internal capabilities. Has BellSouth demonstrated in the present application that such nondiscriminatory access exists? The answer is clearly that it has not.

At a minimum, CompTel believes that parity of access will require two commitments from BellSouth (and BOCs, generally): (1) CLECs must be granted access to all points in the network to combine requested UNEs (and must not be limited by artificial collocation requirements); and (2) the BOCs must use fully-automated systems for the separation and reconfiguration of requested UNEs. BellSouth's present application provides discriminatory access, at best, and generally fails to address access issues in any meaningful way.

1. Supervised Access

CLECs must be provided nondiscriminatory access to all points within BellSouth's network for competitive entry to be a reality. BellSouth customers enjoy the benefit of service personnel who have such access to its network. However, the BellSouth application offers only delivery of UNEs to a CLEC's collocation space. Establishing a collocation space involves huge capital costs and the inherent delays associated with negotiations to

secure them.^{41/} Such costs and delays can quickly rise to the level of a *de facto* barrier to entry. These costs and delays, however, can be avoided simply by BellSouth offering to CLECs what it reserves for itself -- access to all points in the network. The belief that ILECs will offer such access was a fundamental underpinning of the *Iowa Utilities Board* decision.^{42/}

Such access to the network would greatly enhance a CLEC's ability to combine UNEs in the most efficient manner possible, and critically, would be a significant step toward ensuring CLECs can combine elements *in the same manner as BellSouth*. The question CompTel respectfully submits that the Commission must consider is this: does BellSouth (or any other BOC) provide CLECs with the same level of access that it provides to its own retail operations? Of course, in order to answer a comparative question such as this, the Commission must first determine what access BellSouth provides to itself. Here again, BellSouth has not provided the Commission with the necessary foundation for answering the question at hand.^{43/}

2. Automated Systems

Realistic competition also will require that the separation and reconfiguration of UNEs be provided through automated systems except in the most unusual circumstances.

^{41/} As DOJ noted, the collocation requirement raises the cost of entry in the local exchange market. DOJ Evaluation at 25.

^{42/} *Iowa Utilities Board*, 120 F.3d at 813.

^{43/} The Department of Justice concurred, stating, "BellSouth has not addressed these issues sufficiently, thereby precluding any finding that its offering is sufficient to satisfy this statutory requirement." Evaluation at 22, note 32.

Currently, BellSouth can often reconfigure elements used to provide its own service entirely through automated systems. In practical terms, this means that elements can be reconfigured through a few keystrokes rather than sending a technician down into the network to manually rearrange network connections. The efficiency of using such automated systems is obvious. Using such systems, a typical residential customer could be transferred to a CLEC's service in the same way an IXC PIC change is accomplished today.

Unfortunately, BellSouth does not offer such access, and has not described any efforts it is making to achieve that goal. If the application were accepted in its current form, potential CLEC customers would be forced to suffer the effects of manual reconfigurations: service disconnections, delays in service provision, and substantially increased costs. All of these, of course, can be avoided by BellSouth providing CLECs with equal access to automated reconfiguration systems. However, because BellSouth has wholly ignored this issue, it has left the Commission with no basis upon which to conclude that BellSouth has complied with the checklist requirement of nondiscriminatory access.

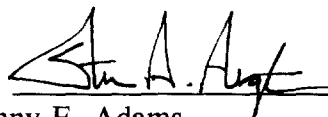
CONCLUSION

For the foregoing reasons, and for the reasons stated in CompTel's initial comments, BellSouth's application to provide in-region, interLATA services in South Carolina should be denied.

Respectfully submitted,

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